

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

<b>IN RE: AFTERMARKET FILTERS ANTITRUST LITIGATION</b>	<b>Master Docket No. 1:08-cv-4883</b>
<b>THIS DOCUMENT RELATES TO: ALL ACTIONS</b>	<b>MDL No. 1957</b>
	Honorable Robert W. Gettleman Magistrate Geraldine Soat Brown

**MOTION FOR LEAVE TO FILE NON-SETTLING DEFENDANTS'  
RESPONSE TO PLAINTIFFS' SUPPLEMENTAL MEMORANDUM  
IN SUPPORT OF AMENDED OMNIBUS MOTION FOR PRELIMINARY  
APPROVAL OF PROPOSED SETTLEMENTS AND OTHER RELIEF**

Defendants ArvinMeritor, Inc., Purolator Products NA, LLC, Purolator Products Company LLC, Champion Laboratories, Inc., Honeywell International, Inc., Wix Filtration Corp. LLC, and Affinia Group, Inc. (collectively "Non-Settling Defendants"), through their undersigned counsel, hereby move this Court for leave to file a response ("Response") to Plaintiffs' Supplemental Memorandum in Support of Amended Omnibus Motion for Preliminary Approval of Proposed Settlements; Certification of Settlement Classes; Appointment of Class Counsel for Settlement Classes; Authorization to Disseminate Notice to Settlement Classes; and Setting a Hearing on Final Settlement Approval (ECF No. 842) ("Omnibus Motion"), filed on October 26, 2011, for the limited purpose of objecting to plaintiffs' request that Non-Settling Defendants provide customer lists for notice purposes. In support of this motion, Non-Settling Defendants state as follows:

1. At an October 12, 2011 status hearing, the Court directed plaintiffs to file a supplemental brief in support of their contention that partial class settlements are "something that's routinely done." (Hr'g Tr. at 24.) Rather than limit themselves to this specific topic, on October 26, 2011, plaintiffs filed their Omnibus Motion, which addressed not only the propriety

of partial settlements (as the Court requested), but also addressed the use of funds from the partial settlements to pay case expenses, and the production of customer lists by Non-Settling Defendants for notice purposes.

2. Non-Settling Defendants take no position on the propriety of the partial settlement nor on the use of funds to pay case expenses. However, as outlined in the accompanying memorandum, Non-Settling Defendants object to Plaintiffs' attempt to compel Non-Settling Defendants to create and provide customer mailing lists to enable plaintiffs to comply with their notice obligations. Non-Settling Defendants have standing to object to this portion of plaintiffs' Omnibus Motion, which directly and adversely affects the rights of Non-Settling Defendants.

3. Each of the defendants produced customer information to plaintiffs during the discovery period, including customer names, mailing addresses, and other customer information in their transactional sales data. Non-settling Defendants do not possess ready-made customer lists that would meet plaintiffs' needs. Because plaintiffs therefore already possess all of the information necessary to create a mailing list for notice purposes, plaintiffs are therefore in precisely the same position as Non-Settling Defendants with respect to the creation of the mailing lists.

4. Because plaintiffs bear the legal obligation to provide settlement notices, it would be improper to shift costs associated with that burden to Non-Settling Defendants, who are not even parties to the settlements. In light of the expanded relief sought by plaintiffs, Non-Settling Defendants seek an opportunity to respond to that portion of the Omnibus Motion that seeks to compel action by Non-Settling Defendants.

WHEREFORE, Non-Settling Defendants respectfully request leave to file the accompanying Response to plaintiffs' Omnibus Motion.

Dated: November 15, 2011

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I, James A. Morsch, hereby certify that on November 15, 2011, I caused the foregoing Motion for Leave to File Non-Settling Defendants' Response to Plaintiffs' Supplemental Memorandum in Support of Omnibus Motion for Preliminary Approval of Proposed Settlement and Other Relief to be filed with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to all parties indicated on the electronic filing receipt.

/s/ James A. Morsch